

# bmj.com news roundup

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## Bill will set up court of protection for those lacking mental capacity

The UK government announced improvements this week to a long awaited bill that gives statutory recognition to advance directives or "living wills" and creates a new right for people to appoint friends or relatives to take decisions about their medical treatment if they become mentally incapable in the future.

The bill, the Mental Capacity Bill, is designed to plug a long recognised gap in the law of England and Wales whereby no one has power to take treatment decisions for adults who lack mental capacity, not even family members or the courts. The most a court can do is make a declaration that a course of action proposed by a doctor, such as withdrawing artificial feeding from a patient in a permanent vegetative state, would be lawful.

The bill will set up a new court of protection with power to take decisions about the finances and health care of people who are mentally incapacitated. Judges will also have a new power to appoint a manager to take future decisions. This could be a family member, a social worker, or both, appointed jointly, or any individual that the court considers appropriate. *Clare Dyer legal correspondent, BMJ*

## Human cloning is justified in preventing genetic disease

Cloning babies would be desirable under certain circumstances, says Ian Wilmut, leader of the team that created Dolly the sheep, the world's first cloned animal.

He made his comments in an article published last week in *New Scientist* (2004;181(2435):12), saying that it would be acceptable if it helped prevent genetic disease. "[Human] cloning promises such great benefits that it would be



*Cat on a hot tiled wall*

Children at the Gloucestershire Royal Hospital joined children from local schools in helping to design this ceramic tile image at the entrance to the new children's centre at the hospital. Ceramic artist Marion Brandis based her images on designs created by the children, then scaled them up to create the final image.

The wall is one of 10 commissions from artists for the hospital, a £30m (\$56m; €45m) private finance initiative scheme that is due to be completed this summer. The hospital already has four light beacons that create landmarks around the hospital site, as well as a "bubble" tower that rises from the ground to the first floor in the children's centre and aims to reassure parents and divert children's attention.

*Lynn Eaton London*

For more information see [www.leadingthewayarts.info](http://www.leadingthewayarts.info)

immoral not to do it," wrote Dr Wilmut, joint head of the department of gene expression and development at the Roslin Institute, Edinburgh.

He argues that cloning techniques could be combined with genetic engineering to cure hereditary disease. For example, couples who did not want to pass on a genetic disease could first produce an embryo through in vitro fertilisation. The embryo would then be screened for the genetic abnormality. Stem cells from the embryo would be taken, and a genetic engineering technique developed last year by Thomas Zwake and James Thomson (*Nature Biotechnology* 2003;21:319-21) would be used to correct the genetic abnormality. The corrected stem cell nucleus would then be placed in an egg to form a new embryo that would be implanted into the mother's womb. The resulting foetus would essentially be an identical twin of the original embryo but with the abnormal

gene corrected in every one of its cells. It would still be a clone—but of a new individual produced by both its parents and not a clone of just one parent. *Debashis Singh London*

The draft Bill on Mental Incapacity is at [www.dca.gov.uk/family/mi/](http://www.dca.gov.uk/family/mi/)

## Sweden bans privatisation of hospitals

The Swedish coalition government has banned the privatisation of hospitals, amid fears that the expansion of private health care could destroy the principle of a fair and free public health service.

Health minister Lars Engqvist, a Social Democrat, said that new legislation would end the practise of private patients "buying their way past" hospital waiting lists. Provincial authorities, which are responsible in Sweden for the

local healthcare system, will not be allowed in future to hand over the running of a hospital to a profit making company.

The ban comes after two provincial authorities, both controlled by centre right parties, began to privatise state hospitals that had expanded their private care. Both authorities are controlled by the centre right.

Under the terms of the bill private companies will not be allowed to run hospitals that treat state insured patients as well as private patients. In addition, provincial authorities will be forbidden from handing over the day to day running of hospitals to profit making companies. But existing private hospitals will be allowed to continue in existence.

*Jane Burgermeister Vienna*

## Trusts are ill prepared for 58 hour week for junior doctors

Trusts may be ill prepared for new limits on junior doctors' working hours because of a lack of government support and confusion over the legislative details, a parliamentary inquiry has heard.

Doctors' leaders have informed the House of Lords inquiry that national guidance has failed to materialise on how trusts can cut junior doctors' weekly hours to 58—just months away from the deadline.

From August 2004 the European Working Time Directive will be extended to include junior doctors. The cut in hours is equivalent to about a 10% drop in the total hours worked by such trainees. But the BMA has told the inquiry that the working time directive pilots taking place throughout England probably won't report in time to help trusts meet the August deadline.

"The Department of Health has been very late on the uptake," said Simon Eccles, chairman of the BMA's Junior Doctors Committee, which has persuaded the department to run four "hospitals at night" pilots.

*Katherine Burke London*